



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

CRS

Docket No: 3341-99

3 March 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 29 November 1994 at age 24 in the rate of TMSN (E-3). On 15 September 1995 you took the TM3 (E-4) advancement examination. Subsequently, you were advised that you passed that examination, and would be advanced to TM3 on 16 June 1996.

Your record reflects that on 23 January 1996 you received nonjudicial punishment for absence from your appointed place of duty, failure to obey a lawful order, and larceny. The punishment imposed consisted of restriction and extra duty for 30 days and reduction in pay grade from TMSN to TMSA (E-2). On the same date, you received a second nonjudicial punishment for willful disobedience of a lawful order and failure to obey a lawful order on two occasions. The punishment imposed consisted of forfeitures of \$435 per month for two months, restriction and extra duty for 45 days, and reduction from TMSA to SR (E-1).

A physical evaluation board, conducted on 20 May 1996, diagnosed you as having schizophrenia, which did not exist prior to your

entry on active duty. On 16 June 1996 you were eligible to be advanced to TM3 (E-4), but you were not advanced since you had been reduced to SR. On 2 April 1997 you were transferred to the temporary disability retired list in pay grade E-2.

The Board noted your documentation and the contention that if you had not been mentally ill you would have been advanced to TM3 but found this contention was insufficient to warrant the removal of the two nonjudicial punishments or advancement to TM3. The Board presumed that the commanding officer acted reasonably in concluding, based on the evidence before him, that you committed the offenses. The Board concluded that the commanding officer was in the best position to resolve the factual issues and impose an appropriate punishment. In this regard, there is no evidence in the record, and you have submitted none, to show that your disorder relieved you of responsibility for your actions, or was sufficiently extenuating or mitigating to warrant corrective action. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Copy to: Disabled American Veterans